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MAY 14 2003  
ADMINISTRATIVE HEARING  
COMMISSION

Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission 1 CSR 15-2.150(1), and pursuant to the terms of § 536.060, RSMo, as it is made applicable to the Administrative Hearing Commission by § 621.135, RSMo, Rosemary Rodgers, M.D., Respondent and the Missouri State Board of Registration for the Healing Arts (the Board) waive their right to a hearing and decision of the above-styled case by the Administrative Hearing Commission and, additionally, the right to a disciplinary hearing before the State Board of Registration for the Healing Arts under § 621.110, RSMo, and jointly stipulate and agree that a final disposition of this matter may be effectuated as described below in this Joint Stipulation of Facts. Waiver of

Hearings Before the Administrative Hearing Commission and State Board of Registration for the Healing Arts, and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law (hereinafter "agreement").

1. Respondent, Rosemary Rodgers, acknowledges that she understands the various rights and privileges afforded her by law and understands that this Agreement is in lieu of a contested case hearing by the Administrative Hearing Commission (hereinafter "the Commission") where she would have the right to appear and be represented by counsel, the right to a hearing of the charges pending against Respondent; the right to have all charges against Respondent proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Respondent; the right to present evidence on Respondent's own behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the charges pending against Respondent; the right to a ruling on questions of law by an administrative hearing commissioner; the right to seek recovery of attorney's fees and costs; the right to a disciplinary hearing before the Board at which time evidence may be presented in mitigation of discipline and the right to obtain judicial review of the decisions of the Administrative Hearing Commission and the State Board of Registration for the Healing Arts. Having been advised of these rights provided Respondent by operation of law, Respondent knowingly and voluntarily waives each and every one of these rights and freely enters into this Joint

Stipulation of Facts, Waiver of Hearings before the Administrative Hearing Commission and State Board of Registration for the Healing Arts, and Consent Order With Joint Proposed Findings of Fact and Conclusions of Law and agrees to abide by the terms of this document as they pertain to Respondent.

2. Respondent acknowledges that she has received a copy of the Complaint filed with the Administrative Hearing Commission in this cause.

3. The parties stipulate and agree that the disciplinary order agreed to by Petitioner and Respondent in Part II herein is based only on the Joint Proposed Findings of Fact set out in Part I herein. Respondent understands that the Board may take further disciplinary action against Respondent based on facts or conduct not specifically mentioned in this document that are either now known to the Board or may be discovered after the approval of this Agreement by the Administrative Hearing Commission.

4. Respondent hereby waives and releases the Board, its members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees costs and expenses, and compensation, including, but not limited to any claims for attorneys fees and expenses, including any claims pursuant to §536.087, RSMo, or any claim arising under 42 USC 1983, which may be based upon, arise out of, or relate to any of the matters raised in this agreement, or from the negotiation or execution of this agreement. The parties acknowledge that this paragraph is severable from the remaining portions of

this agreement in that it survives in perpetuity even in the event that any court of law deems this agreement or any portion thereof void or unenforceable.

5. Respondent understands and agrees that the Missouri State Board of Registration for the Healing Arts will maintain this Agreement as an open record of the Board as required by Chapters 334, 610, 620 and 621, RSMo, as amended.

#### I.

Based upon the foregoing, Petitioner and Respondent herein jointly stipulate to the following Joint Proposed Findings of Fact and Joint Proposed Conclusions of Law and request that the Administrative Hearing Commission adopt the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law as the Administrative Hearing Commission's Findings of Fact and Conclusions of Law:

#### JOINT PROPOSED FINDINGS OF FACT

1. The State Board of Registration for the Healing Arts (hereinafter "the Board") is an agency of the State of Missouri created and established pursuant to §334.120, RSMo, 2000, for the purpose of executing and enforcing the provisions of Chapter 334, RSMo.

2. Respondent is licensed by the Board as a physician and surgeon, license number R9C16. Respondent's license is, and was at all times herein relevant, current and active.

3. Respondent is licensed to practice as a physician and surgeon in the state of Illinois, License No. 36-042439.

4. On or about January 28, 2002, Respondent's license to practice as a physician and surgeon in the state of Illinois, License No. 36-043439, was suspended by the Department of Professional Regulation, Case No. 98-10922.

5. The Illinois Department of Professional Regulation disciplined Respondent's license for violations of 225 Illinois Compiled Statutes (1996), Section 60/22(A), paragraph(s) 27, which states in pertinent part:

(A) The Department may revoke, suspend, place on probationary status, or take away any other disciplinary action as the Department may deem proper with regard to the license or visiting professor permit of any person issued under this Act to practice medicine, or to treat human ailments without the use of drugs and without operative surgery upon any of the following grounds:

....

(27) Mental illness or disability which results in the inability to practice under this Act with reasonable judgment, skill or safety.

....

6. The suspension of Respondent's license in Illinois constitutes a final disciplinary action.

## JOINT PROPOSED CONCLUSIONS OF LAW

1. Respondent's conduct, as established by the foregoing facts, falls within the intendment of § 334.100.2(8), RSMo.

2. Cause exists for the Board to take disciplinary action against Licensee's license pursuant to §334.100.2(8), RSMo, 2000, which states in pertinent part:

2. The Board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

....

(8) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for a license or other right to practice any profession regulated by this chapter by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee or applicant, including, but not limited to, the denial or licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the practice of medicine while subject to an investigation ....

....

## II.

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the State Board of Registration for the Healing Arts in this matter under the authority of § 621.110, RSMo. This disciplinary order will be effective immediately upon the issuance of the consent order of the Administrative Hearing Commission approving this Agreement without further action by either party.

1. The medical license, No. R9C16, issued to Respondent is hereby SUSPENDED for a period of three years, or until the Board receives a letter from Respondent's treating physician stating that Respondent is able to safely and competently engage in the practice of medicine without restriction, whichever occurs sooner.

2. Respondent shall return her medical license, wall-hanging certificate, pocket card, and all other indicia of licensure to the Board no later than ten (10) days after the Commission issues its Consent Order approving this Agreement. Respondent's license shall be held by the Board during the period of suspension.

3. During Respondent's suspension, Respondent shall not engage in the practice of medicine under Chapter 334, RSMo, nor shall Respondent hold herself out in any fashion as being authorized to engage in the practice of medicine under Chapter 334, RSMo. The following activities are identified for illustrative or informational purposes only and are not intended to be an exhaustive listing of the activities which would

constitute the practice of medicine and which Respondent shall not engage in during suspension. During suspension, Respondent shall not engage in any gratuitous or occasional treatment of any person; shall not maintain an office; shall not provide consultation services or opinions of any kind concerning the medical care and treatment of any person; shall not provide testimony as an expert medical witness; and shall not endeavor in any manner to evaluate, test, diagnose, or treat any person.

4. During the period of suspension, Respondent shall keep the Board informed of Respondent's current work and home telephone numbers and addresses. Respondent shall notify the Board in writing within ten (10) days of any change in this information.

5. During the period of suspension, Respondent shall appear in person for interviews with the Board or its designee upon request.

6. During the period of suspension, Respondent shall timely renew her license and timely pay all fees required for licensing and comply with all other Board requirements necessary to maintain Respondent's license in a current state.

7. For purposes of this Agreement, all documentation, evaluations, notices, or other materials required to be submitted to the Board in this Agreement shall be forwarded to the State Board of Registration for the Healing Arts, Attention: Investigations, P.O. Box 4, Jefferson City, Missouri 65102.



8. This Order does not bind the Board or restrict the remedies available to it concerning any other violation of Chapter 334, RSMo, by Respondent not specifically mentioned in this document.

9. Respondent hereby waives and releases the Board, its members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees costs and expenses, and compensation, including, but not limited to any claims for attorneys fees and expenses, including any claims pursuant to §536.087, RSMo, or any claim arising under 42 USC 1983, which may be based upon, arise out of, or relate to any of the matters raised in this agreement, or from the negotiation or execution of this agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this agreement in that it survives in perpetuity even in the event that any court of law deems this agreement or any portion thereof void or unenforceable.

10. In consideration of the foregoing, the parties consent to the entry of record and approval of this Joint Stipulation of Facts, Waiver of Hearings before the Administrative Hearing Commission and State Board of Registration for the Healing Arts, and Consent Order and to the termination of any further proceedings before the Administrative Hearing Commission based upon the complaint filed by Petitioner in the above-styled case.

RESPONDENT

Rosemary Rodgers 5/6/03  
Rosemary Rodgers, M.D. Date

R.S. HOOVER & ASSOCIATES  
Attorneys at Law

R. Sam Hoover 5/8/03  
R. Sam Hoover Date  
Attorney at Law  
Illinois Bar No. 6225196

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(847) 295-5122 facsimile

Attorneys for Respondent

PETITIONER

State Board of Registration  
for the Healing Arts

Tina Steinman 5/13/03  
Tina Steinman Date  
Executive Director

JEREMIAH W. (JAY) NIXON  
Attorney General

Nicole L. Sublett 5/14/03  
Nicole L. Sublett Date  
Assistant Attorney General  
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(573) 751-5660 facsimile

Attorneys for Petitioner

Before the  
Administrative Hearing Commission  
State of Missouri



STATE BOARD OF REGISTRATION FOR  
THE HEALING ARTS,

Petitioner,

vs.

ROSEMARY RODGERS, M.D.,

Respondent.

No. 03-0246 HA

**CONSENT ORDER**

The licensing authority filed a complaint. Section 621.045, RSMo 2000, gives us jurisdiction.

On May 14, 2003, the parties filed a "Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Board of Registration for the Healing Arts, and Consent Order With Joint Proposed Findings of Fact and Conclusions of Law." Our review of the document shows that the parties have stipulated to certain facts and waived their right to a hearing before us. Because the parties have agreed to these facts, we incorporate them into this order and adopt them as stipulated. *Buckner v. Buckner*, 912 S.W. 2d 65, 70 (Mo. App., W.D. 1995). We conclude that the licensee is subject to discipline under § 334.100.2(8), RSMo 2000. We incorporate the parties' proposed findings of fact and conclusions of law into this Consent Order. We certify the record to the licensing agency under § 621.110, RSMo 2000.

The only issue before this Commission is whether the stipulated conduct constitutes cause to discipline the license. The appropriate disciplinary action is not within our power to decide; that is subject to the licensing authority's decision or the parties' agreement. Section 621.110, RSMo 2000.

No statute authorizes us to determine whether the agency has complied with the provisions of section 621.045.3, RSMo 2000. We have no power to superintend agency compliance with statutory procedures. *Missouri Health Facilities Review Comm. v. Administrative Hearing Comm'n*, 700 S.W. 2d 445, 450 (Mo. banc 1985). Therefore, we do not determine whether the agency complied with such procedures.

SO ORDERED on May 16, 2003.

  
JUNE STRIEGEL DOUGHTY  
Commissioner